

In a Writ of Error upon a Judgment given in the Common-Pleas, and afterwards affirmed in the Queen's-Bench in an Ejectment brought by *Philip Hunt Lessee of Richard Gwyllim, Plaintiff;*

A G A I N S T

*Edward Bourne and Margaret his Wife, Andrew Fryzer and Mary his Wife, and Mary Merrick, Widow, Defendants.*

The C A S E of *Richard Gwyllim the Lessor of the Plaintiff.*

14. Feb. 14. Jux. 1. Thomas Andrews settled the Lands in Question upon the Marriage of his Daughter *Mary*, To the use of himself and Wife for Life, and afterwards to the use of the said *Mary* his Daughter, and the Heirs of her Body, begotten by *John Gwyllim*.

**T**homás Andrews being seized in Fee of the *Lands in Question* which lie in the Parish of *Kings Caple*, in the County of *Hereford*, and are held of the *Mannor of Wormlow* in the said County, which is *Ancient Demesn* of the Crown did on the 14th day of Feb. in the 14th year of King James I. convey the same to *Tobias Payne*, and *Philip Andrews*, and their Heirs, To the use of him the said *Thomas Andrews*, and *Elienor his Wife*, for their Lives, and after their decease, To the use of *Mary Andrews* Daughter of the said *Thomas Andrews* and the Heirs of her Body by *John Gwyllim*, begotten, and to be begotten, and for want of such Issue to the Heirs of the Body of the said *Mary*, and for want of Issue of the said *Mary*, To the Heirs of the Body of *Elizabeth Tompkins*, another Daughter of the said *Thomas Andrews*, and the Heirs of the Body of the said *Elizabeth*, with divers Remainders over the Remainder to the right Heirs of the said *Thomas Andrews*.

*John Gwyllim Marries Mary Andrews, and has Issue by her Tho. Gwyllim.*

*Tho. Andrews and his Wife dye, and John Gwyllim and Mary his Wife enter, and are seized in Tayl.*

*John Gwyllim and Mary his Wife dye, leaving Issue Tho. Gwyllim, who enters and is seized in Tayl.*

And Fines having been usually levied in the Court of Ancient Demesn *Thomas Gwyllim*, and *Mabell his Wife*, 29. May 1646. levying a Fine of the premises, which had not before been usually demised, to *William Nurse and Sarah his Wife*, and *John Nurse* their Son, for term of their Lives, and the Life of the longest Liver of them, under the yearly Rent of 6*l.* But the Rent reserved was not the Ancient Rent, neither had the said Lands at any time before been usually Demised, so the Lease was not Warrented by the Statute 32. Hen. 8. and consequently made a Discontinuance.

By Virtue of this Fine the Lessees enter'd, and were seized, and the said *Thomas Gwyllim* being seized of the Reversion of the Premises he and his Wife, 2 June 24. Car. I. Levied a Fine sur Connusance de Droit come ceo of the same Lands in the said Court of Ancient Demesn, To the use of himself and his Heirs, and by his Deed of Bargain and Sale enrolled, dated 1st. November 24. Car. I. convey'd the said Lands to *Thomas Payne and his Heirs*, under whom the Defendants Claim; and by his Deed bearing date 9. Nov. 1649. did release all his Right, Title and Interest in the said Lands, unto the said *Thomas Payne* and his Heirs.

1. Nov. 24. Car. I. the said *Tho. Gwyllim* by deed Enrolled grants the 14th Reversion to *Thomas Payne and his Heirs*.

9. Nov. 1649. the said *Tho. Gwyllim* releases all his right to the said *Tho. Payne* and his Heirs.

23. June 1663. *Tho. Gwyllim* dyes leaving Issue *Tho. Gwyllim* his Son and Heir, who has Issue *Richard Gwyllim*, the Lessor of the Plaintiff.

20. Sept. 1661. *Tho. Payne* the Grantee of the Reversion under whom the Defendants claim dyed.

*Sarah Nurse* the last Life upon the Demise by the first Fine dyed 17. Sept. 1693.

*Richard Gwyllim* the Lessor enter'd 2 Sept. 1693.

Ejectment brought in the Common Pleas in Hillary Term, 1693, and judgment for the Plaintiff, Trinity Term, 1700.

Error brought in the Kings-Bench Trinity Term, 1700. And judgment Affirmed in Trinity Term, 1703.

The Question and reason of the Judgment.

The only Question of this Case is if *Richard Gwyllim*, the Lessor of the Plaintiff, who claims as Issue in Tayl under a Settlement made upon the Marriage of his Ancestor, may lawfully enter after the Determination of the Estate for three Lives, granted by the First Fine, for it is not pretended that a Fine levied in a Court of Ancient Demesn will bar an Estate Tayl at this day, and it was adjudged that the Entry of *Richard Gwyllim* was lawful, and not taken away by the Statute of Limitations for the first Fine made a Discontinuance of the Estate Tayl, and took away the Entry of the Issue in Tayl, during the Lives of the Lessees; and the grant of the Reversion, by the second Fine, did not make a Discontinuance in Fee, and consequently when the last Life expired 17. Sept. 1693. the Discontinuance was determined, and the right of Entry revived, and therefore *Richard Gwyllim*, the Issue in Tayl, might lawfully enter, and is not barred by the Statute of Limitations, because the Statute allows twenty years after his right of Entry accrued, and the right of Entry did not accrue till 1693.

And for these Reasons it is humbly hoped that the Judgments of the said Courts shall be affirmed.

T. Powys.  
R. Eyre.